IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SECOND DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 3926 of 1994

Between:

Mikkilineni Paparao S/o.M.Ramakotaiah
Challapalli Mandal Krishna Dist

..... PETITIONER

AND

1 The District Collector Krishna Dist
at Machilipatnam
2 The Revenue Divisional Officer (Land Acquisition Officer, Bandar)
Machilipatnam Krishna Dist
3 The Mandal Revenue Officer, Challapalli Mandal
Krishna Dist

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a writ order or direction declaring the notification under Sec.4(1) of Land Acquisition Act dt.9/11/1983 the declaration under Section 6 of the Land Acquisition Act, Dt.17/7/1993 and the issuance of notices under Sections 9(3) and 10 of the said Act dt.23/10/1993 issued by the respondent for acquisition of the land of an extent of Ac.0-50 cents in RS.No.960/1 of Lakshmipuram village, Challapalli Mandal, Krishna District belonging to the petitioner as arbitrary illegal and contrary to the directions of this Hon'ble Court and thereby declare the same as nonest and null and void and pass such other order.

Counsel for the Petitioner: MR.T.S.ANAND

Counsel for the Respondent No.: GP FOR SOCIAL WELFARE and G.P. for Revenue.

The Court made the following :

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ORDER:

Heard the learned counsel for the petitioner and also the learned Government Pleader appearing on behalf of the respondents.

The petitioner herein, who claims to be the owner of the land in R.S.No. 960/1 admeasuring Ac. 0.50 situated in Lakshmipuram Village, Challapalli Mandal, Krishna District, filed this Writ Petition inter alia, seeking a Writ of Mandamus challenging the entire acquisition proceedings in pursuance of the notification dated 9.11.1983 issued under Section 4(1) of the Land Acquisition Act and also the consequent declaration made on 17.7.1993 under section 6 of the said Act and further to hold that the notices issued under Sections 9(3) and 10 of the said Act dated 23.10.1993 as illegal.

A few facts, which are necessary for disposal of the Writ Petition are that in respect of the above said land notification under Section 4(1) of Land Acquisition Act was issued on 9.11.1983. Earlier aggrieved by the said proceedings the petitioner filed W.P.No. 6291/1984 in the month of March 1984. This Court by an order-dated 14.2.1986 directed the respondents to conduct an enquiry under Section 5-A of the Act. The complaint of the petitioner is that in spite of the said direction given by this court, no enquiry as such was conducted. Therefore, the petitioner filed another Writ

Petition No. 12229 of 1987 which was again allowed on 12.1.1993 directing the respondents herein to conduct enquiry. The complaint is that in spite of two directions given by this court, no enquiry was conducted. More over, the authorities have published the declaration-dated 17.7.1993 under Section 6 of the Land Acquisition Act in the Krishna District Gazette on 29.7.1993 afresh without completing the enquiry under Section 5-A of the Act. Hence, the present Writ Petition has been filed.

In the counter affidavit filed on behalf of the respondents it is admitted that the notification under Section 4(1) of the Land Acquisition Act and Draft Declaration under Section 6 of the Act were published at pages 3 and 4 of the Special supplement to the extraordinary Krishna district Gazettee dated 9.11.1983 and in view of the urgency involved in the case, urgency clause was invoked under Section 17(4) of the Act dispensing with the enquiry under Section 5-A and after observing all the statutory formalities award has been passed on 29.3.1984 to acquire the land. At that stage the petitioner filed Writ Petition No. 6291 of 1984 and the same was disposed of on 14.2.1986 with a direction to conduct fresh 5-A enquiry duly quashing the declaration under Section 6 of the Land Acquisition Act. In pursuance of these orders, notice under Section 5-A of the Act was issued on 19.9.1986 and an enquiry has been conducted. Again in pursuance of the orders in W.P.No. 12229 of 1987 dated 25.1.1993, notices under Sections 9(1) and 10 of the Act were duly published on 25.10.1993 and the same were duly served on the awardees on 27.10.1993. In the notices it was informed that the award enquiry is proposed to be taken up on 15.11.1993 at 3.00PM and again at the request of the petitioner the same was postponed to 3.1.1994. Therefore, the petitioner having not taken part in the above said enquiry, he is not entitled to ask relief and therefore, the learned Government Pleader submits that there is absolutely no illegality and prayed this court to dismiss the Writ Petition with costs.

Having heard the submissions made and also on a perusal of the entire material on record, it is apparent that on two occasions this court directed to conduct an enquiry under Section 5-A of the Act and in spite of the same, no such enquiry was conducted. A detailed counter affidavit filed in this Writ petition does not spell out anything about the enquiry under Section 5-A subsequent to the orders passed by this court, therefore, which shows the total dis-regard to the orders passed by this court. Further it is also not held that the enquiry under Section 5-A was quite

necessary to provide compensation to the petitioner. Though the notification under Section 4(1) was said to be issued as long back as on 9.11.1983, no attempt has been made to conduct enquiry under Section 5-A of the Act.

In the circumstances, it has to be held that the notification under Section 4(1) of the Act dated 9.11.1983, Declaration under section 6 of the Act dated 17.7.1993 and issuance of notices under Sections 9(3) and 10 of the Land Acquisition Act dated 23.10.1993 are set aside.

Accordingly, the Writ Petition is allowed. No costs.

22.07.2004.

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That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday the Twenty Second Day of July Two Thousand Four.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The District Collector Krishna Dist
at Machilipatnam
2 The Revenue Divisional Officer (Land Acquisition Officer, Bandar)
Machilipatnam Krishna Dist
3 The Mandal Revenue Officer, Challapalli Mandal
Krishna Dist

3. 2CCs each to G.P. for Social Welfare and G.P for Revenue , High Court Buildings, High Court of A.P., Hyderabad.

4. 2CD copies